

AMENDED IN SENATE MARCH 10, 2003

**SENATE BILL**

**No. 145**

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**Introduced by Senator Alpert**

February 6, 2003

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An act to amend Section 56506 of the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

SB 145, as amended, Alpert. ~~Special Education~~ *education*: due process rights.

Existing law enumerates the due process hearing rights that extend to a special education pupil and the parent, including the right to obtain an independent educational assessment.

This bill, in addition, would require a local educational agency to allow an independent educational assessment to be conducted, including the observation by an independent assessor of the pupil in the pupil's current or proposed educational placement, regardless of whether the assessment is initiated before or after the filing of a due process hearing proceeding. To the extent school districts would be required to ~~perform additional independent educational assessments~~ *allow schoolsite access to independent assessors*, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 56506 of the Education Code is  
2 amended to read:
- 3 56506. In addition to the due process hearing rights  
4 enumerated in subdivision (b) of Section 56501, the following due  
5 process rights extend to the pupil and the parent:
- 6 (a) Written notice to the parent of his or her rights in language  
7 easily understood by the general public and in the primary  
8 language of the parent or other mode of communication used by  
9 the parent, unless to do so is clearly not feasible. The written notice  
10 of rights shall include, but not be limited to, those prescribed by  
11 Section 56341.
- 12 (b) The right to initiate a referral of a child for special education  
13 services pursuant to Section 56303.
- 14 (c) The right to obtain an independent educational assessment  
15 pursuant to subdivision (b) of Section 56329. A local ~~additional~~  
16 *educational* agency shall allow an independent educational  
17 assessment to be conducted pursuant to ~~this section~~ Section 56329,  
18 including the observation by an independent assessor of the pupil  
19 in the pupil's current or proposed educational placement and  
20 setting, regardless of whether the independent educational  
21 assessment is initiated before or after the filing of a due process  
22 hearing proceeding.
- 23 (d) The right to participate in the development of the  
24 individualized education program and to be informed of the  
25 availability under state and federal law of free appropriate public  
26 education and of all available alternative programs, both public  
27 and nonpublic.
- 28 (e) Written parental consent pursuant to Section 56321 shall be  
29 obtained before any assessment of the pupil is conducted unless the  
30 public education agency prevails in a due process hearing relating  
31 to the assessment. Informed parental consent need not be obtained



1 in the case of a reassessment of the pupil if the local educational  
2 agency can demonstrate that it has taken reasonable measures to  
3 obtain consent and the pupil's parent has failed to respond.

4 (f) Written parental consent pursuant to Section 56321 shall be  
5 obtained before the pupil is placed in a special education program.

6 SEC. 2. Notwithstanding Section 17610 of the Government  
7 Code, if the Commission on State Mandates determines that this  
8 act contains costs mandated by the state, reimbursement to local  
9 agencies and school districts for those costs shall be made pursuant  
10 to Part 7 (commencing with Section 17500) of Division 4 of Title  
11 2 of the Government Code. If the statewide cost of the claim for  
12 reimbursement does not exceed one million dollars (\$1,000,000),  
13 reimbursement shall be made from the State Mandates Claims  
14 Fund.

